

REMARKS

This amendment is responsive to the Office action issued March 4, 1997. Re-examination and reconsideration of the application are respectfully requested.

The Office Action

Claims 1-13 stand allowed.

Claims 15-17 stand rejected under 35 U.S.C. §112, second paragraph.

Claims 14-17 stand rejected under 35 U.S.C. §103 as being unpatentable over Matsutani (U.S. Patent No. 4,875,485) in view of LeVeen (U.S. Patent No. 4,230,129).

The Non-Art Rejections

In Section 1 of the "DETAILED ACTION", the Examiner stated the amendment to claim 16 submitted in REISSUE AMENDMENT A was not entered since it was not proper under 37 C.F.R. §1.121(f). However, applicant respectfully points out §1.121(f) only applies to proposed amendments presented in patents involved in **reexamination** proceedings. The present application is a reissue application. Therefore, §1.121(f) is not applicable.

37 C.F.R. §1.121(e), on the other hand, applies to amendments made in reissue applications. The applicant followed the procedures specified in §1.121(e) in Amendment A.

Because the amendment to **claim 16** made in REISSUE AMENDMENT A was erroneously not entered, applicant has proposed the same amendments again. The proposed amendments to **claim 16** have again been made according to the procedure set forth in 37 C.F.R. §1.121(e).

Although the Examiner did not specifically object to the amendment made to **claim 14** in REISSUE AMENDMENT A, applicant has similarly proposed amending that claim again.

The amendments to **claims 14 and 16** overcome the Examiner's 35 U.S.C. §112 rejections to the claims. Therefore, all claims now meet the statutory requirements of 35 U.S.C. §112.

**Reissue Declaration**

Applicants previously submitted a **SUPPLEMENTAL REISSUE DECLARATION** in which they acknowledged **claims 14 and 16** as they have been amended in this paper. Therefore, an additional Declaration is not necessary.

**The Claims Are Copied Exactly From U.S. Patent No. 5,305,749**

As pointed out in detail in the Preliminary Submission of April 24, 1995, the present claims are copied from U.S. Patent No. 5,305,749 for purposes of invoking an interference. The applicants request reconsideration of the Examiner's rejection of the claims of an issued U.S. Letters Patent.

The Claims of the Present Reissue Application Distinguish Over the Cited References

As a brief review, when the present reissue application was filed, claims 2, 5, 10 and 11 of U.S. Patent No. 5,305,749 to Li et al. ("Li") were substantially, but not precisely, copied as **claims 14-17**, respectively, of the reissue application. The copied claims included slight wording differences which applicant felt were inconsequential relative to the common invention. In the first Office action, the Examiner rejected **claims 14-17** over Matsutani in view of LeVeen. In REISSUE AMENDMENT A, applicant rewrote the copied claims to parallel claims 2, 5, 10 and 11 of the Li patent exactly. The Examiner has again rejected the claims as being obvious over the same two references.

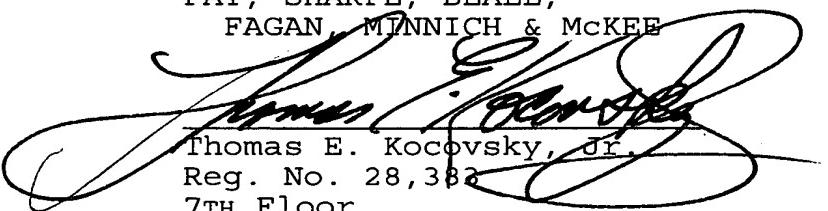
Applicant respectfully points out that **claims 14-17** of the present reissue application have now been substantially exactly copied from the issued Li patent. Furthermore, applicant respectfully points out that the Li patent was filed three years after the Matsutani patent issued and twelve years after the LeVeen patent issued. Therefore, Matsutani and LeVeen were available as prior art references when the search was performed for the claims of the Li patent. However, those references did not prevent the issuance of the Li patent. Therefore, applicant believes independent **claims 14 and 16** of the present reissue application distinguish over Matsutani and Li, either taken alone or in combination.

As dependent **claims 15** and **17** depend from and further limit independent **claims 14** and **16**, respectively, it is submitted they also distinguish over the cited references.

CONCLUSION

For the reasons set forth above, it is submitted independent **claim 1** (along with **claims 2-4** which depend therefrom), independent **claim 5** (along with **claims 6-11** which depend therefrom), independent **claim 12** (along with **claim 13** which depends therefrom), independent **claim 14** (along with **claim 15** which depends therefrom) and independent **claim 16** (along with **claim 17** which depends therefrom) distinguish patentably over the cited references and meet the other statutory requirements. An early allowance of all claims is earnestly solicited.

Respectfully submitted,  
FAY, SHARPE, BEALL,  
FAGAN, MINNICH & MCKEE



Thomas E. Kocovsky, Jr.  
Reg. No. 28,382  
7TH Floor  
1100 Superior Avenue  
Cleveland, Ohio 44144-2518  
(216) 861-5582

CERTIFICATE OF MAILING

I hereby certify that the foregoing REQUEST FOR RECONSIDERATION AND REISSUE AMENDMENT B - AFTER FINAL is being deposited with the United States Postal Service as first class mail, in an envelope addressed to: Box AF, Assistant Commissioner For Patents, Washington, DC 20231, on this 30th day of May, 1997.



Dee R. Darrigo